

# INFORMATION SHEET

## HOW TO OPPOSE A REQUEST TO CHANGE CHILD, SPOUSAL, OR FAMILY SUPPORT

(California Rules of Court, rule 1285.33)

New laws make it easier for a person to ask the court to raise or lower the amount paid for child, spousal, or family support.

### What to Do

1. If you receive a *Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support* ("*Notice of Motion*") (form 1285.30) from the other party or the district attorney family support, you have one of two choices:
  - Agree with the proposed changes; or
  - File a response and go to the hearing.
2. You do not need to wait to go to court before modifying the support. If you agree with the changes sought (see item 2 on the front of the *Notice of Motion*), or if you agree that the order should be changed in some way, contact the party that served you so that an agreement should be reached. If an agreement is reached with the other party, an order must be prepared and submitted to the court for the judge's signature and filed with the court clerk's office. If one of the parties is receiving welfare benefits or the district attorney is enforcing the support order, the district attorney must sign the agreement before it is filed with the court. If you are able to reach an agreement with the other party and the order is filed with the court clerk's office, you do not need to appear at the hearing. The hearing will simply be taken off calendar.

**NOTICE: Unless you know the hearing has been taken off calendar, you should go to the hearing as scheduled to protect your rights. You might consider calling the court the day before the hearing to see if the hearing is still on calendar.**

3. If you do not agree with the proposed changes, you must do the following:
  - Complete the *Responsive Declaration to Motion for Simplified Modification of Order for Child, Spousal, or Family Support* ("*Response to Motion*") (form 1285.32). If a blank *Response to Motion* was not given to you when you received the *Notice of Motion*, the court clerk's office, the office of the family law facilitator, or the district attorney family support office, can tell you where one can be found. **NOTICE: Check with your local court clerk's office or the office of the family law facilitator to see if the forms must be typewritten.** Make at least three copies of the completed form.
  - Fill out the form *Financial Statement (Simplified)* (form 1285.52), if you are allowed to use the form. See the instructions on the back side of the form to see if you qualify; otherwise, you must fill out the form *Income and Expense Declaration* (form 1285.50). You must attach copies of your most recent form W-2's, and three most recent pay check stubs to the form *Financial Statement (Simplified)* or the form *Income and Expense Declaration*. Make at least three copies of the completed form.
4. You must have one copy of each of the following papers served on the district attorney **and on the other party**, if the other party is not the district attorney:
  - Your *Response to Motion* (form 1285.32).
  - Your *Financial Statement (Simplified)* (form 1285.52) or *Income and Expense Declaration* (form 1285.50).

For instructions on how to serve these papers properly, see the information box on the Proof of Service, found on the reverse of the *Response to Motion*. Whoever serves the papers should fill out and must sign the Proof of Service. **NOTICE: Consult with the office of the family law facilitator or the local court rules to see if there are any other documents you will need to have served on the district attorney and on the other party.**

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5. Take the original of each of the completed forms to the court clerk's office for filing. If you or your attorney have not filed any other papers in the case, you must do one of two things:
- Pay a first appearance filing fee to the court clerk when you go to file these papers (you can find out what the amount of the fee is from the court clerk's office or the office of the family law facilitator); or
  - Apply for a fee waiver. For more information on how to request a waiver of the filing fees, get the form *Information Sheet on Waiver of Court Fees and Costs* (form 982(a)(A)).

**NOTICE: The existing support order remains in effect and payments must be made according to its terms until any new order is made.**

## Using an Attorney

If you use this method to modify support, you may hire an attorney to represent you in court, or you may represent yourself. If you hire an attorney, you will have to pay the cost. The court will not provide you with a free attorney.

If the county is the other party, and if one of the parties is receiving welfare benefits, or if one of the parties has asked the district attorney to enforce support, a representative from the district attorney's office will be present at the hearing.

**REMEMBER: The district attorney does not represent any individual in this lawsuit, including the child, the child's mother, and the child's father.**

## Hearing

Make sure you bring with you a copy of your *Response to Motion, Financial Statement (Simplified)* or *Income and Expense Declaration*, your most recent federal and state income tax returns and form W-2's, and three most recent pay check stubs. The other party has a right to see your financial information, and you have the right to see the other party's financial information.

## Court Order

Whether you win or lose, once the judge makes a decision, you may be required to prepare the form *Findings and Order After Hearing* (form 1296.31). If the support order has changed, you may also be required to prepare a modified *Wage and Earnings Assignment Order* (form 1285.70). Usually, the party bringing the motion is supposed to prepare these papers. If that party does not, you must be ready to do it. You will not have to prepare these documents if the district attorney is involved.

If you have prepared these documents yourself, you must make sure that they are signed by the judge. Check with the court clerk's office or the office of the family law facilitator for the proper procedure. After the *Wage and Earnings Assignment Order* is signed by the judge and filed, it must be served on the noncustodial parent's employer, on the other party, and on the district attorney if the district attorney is involved in the case.